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FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. FILING DATE 10/077,086 02/15/2002 02090/TL Taro Suga 3499 05/08/2003 7590 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC **EXAMINER** 76,7 THIRD AVENUE VERBITSKY, GAIL KAPLAN 25TH FLOOR NEW YORK, NY 10017-2023 ART UNIT PAPER NUMBER 2859

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Diffice Action Summary    10/077.086		Application No.	Applicant(s)	
Examiner    Sail Verbiblety   2859	•			
Call Verbitsky   2859	Office Action Summary		SUGA, TARO	
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  The MAILING DATE OF THIS COMMUNICATION.  The MAILING DATE OF THIS COMMUNICATION.  The pend for reply seporate made by provide and the provide of 3 C.PR.1.36(a). In re-event, however, may a reply be linely fleed  If the pend for reply seporate does be used than thery (30) days, a reply within the statisticy minimum of thinty (30) days will be considered timely.  If this pend for reply seporate does, the maximum statutory pend will again state (9) (MONTHS from the malining date of this communication).  Any reply received by the Office later than three months after the malining date of this communication, which there is the communication of the malining date of this communication, which the malining date of this communication is communication.  Any reply received by the Office later than three months after the malining date of this communication is described.  Any reply received by the Office later than three months after the malining date of this communication is communication.  Any reply received by the Office later than three months after the malining date of this communication.  Status  Status  Responsive to communication(s) filled on on Feb. 20, 2003 and March 11, 2003  2a) This action is FINAL  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal malters, prosecution as to the ments is closed in accordance with the practice under Ex parts Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) ± sis/are pending in the application.  4a) Of the above claim(s) is a sis and application.  4b) Claim(s) ± sis/are allowed.  Claim(s) ± sis/are allowed.		Examiner	Art Unit	
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Estimation of time may be available undow the promotions of 37 CF8 1-136(a), in no event, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period to reply specified spows, the maintenine solution period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - If the period to reply specified spows, the maintenine solution period will apply and will expire SIX (6) MONTHS from the maining date of this communication.  - Provided the specified spows the maintenine solution period will apply and will expire SIX (6) MONTHS from the maining date of this communication, even if timely filed, may reduce a my amend placent term adjustment. See 37 CF8 1-764(b).  - Any reply received by the Office atter than three months after the maining date of this communication, even if timely filed. may reduce a my amend placent term adjustment. See 37 CF8 1-764(b).  - Status  - Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  - Disposition of Clairms  - Application is placed to the application.  - (A) Clairm(s)	The MAILING DATE of this communication and			
HE MAILING DATE OF THIS COMMUNICATION.  Extensions of them may be available under the provisions of 37 CFR 1.13(a). In no event, however, may a reply be limitly rited  Extensions of them may be available under the provisions of 37 CFR 1.13(a). In no event, however, may a reply be limitly rited  If the period for reply specified above is the same manufacture of the provision of	Period for Reply			
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a) ☒ All b) ☐ Some * c) ☐ None of:  1. ☒ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) ☐ The translation of the foreign language provisional application has been received.  15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) ☒ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) ☐ Notice of Informal Patent Application (PTO-152)				
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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by EP 11095563 [hereinafter EP].

EP discloses in Fig. 1 and in an abstract all the subject matter claimed by applicant.

## Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP.

EP discloses in Fig. 1 and an abstract all the subject matter claimed by applicant with the exception of the particular angle of inclination of each blade surface of the casing, as stated in claims 2, 5, 6, 8, and the particular width of a leading edge section of the casing, as stated in claims 3, 4.

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With respect to claims 2, 5-6, 8: the particular angle of inclination of the leading edge, i.e., less than or equal 9<sup>0</sup> and less than 60<sup>0</sup>, absent any criticality, is only considered to be the "optimum" value of the angle of inclination disclosed by EP that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the desired shape of the device, etc. *In re Boesch*, 205 USPQ 215 (CCPA 1980).

With respect to claims 3-4: the particular width (size) of the leading edge section, i.e., less than or equal 1 mm, absent any criticality, is only considered to be the "optimum" value of the width of the leading edge section disclosed by EP that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the desired shape and size of the device, etc. *In re Boesch*, 205 USPQ 215 (CCPA 1980).

#### Conclusion

- 5. The prior art made of record and not relied upon considered pertinent to applicant's disclosure.
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Verbitsky who can be reached at (703) 306-5473 Monday through Friday 7:30 to 4:00 ET.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5473.

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GKV

April 15, 2003

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Gail Verbitsky
Patent Examiner, TC 2800